

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BOARD OF TRUSTEES OF THE
LOCALS 302 AND 612 OF THE
INTERNATIONAL UNION OF
OPERATING ENGINEERS
CONSTRUCTION INDUSTRY HEALTH
AND SECURITY FUND, *et al.*,

Plaintiffs,

v.

BARRY CIVIL CONSTRUCTION, INC.,
et al.,

Defendants.

CASE NO. C21-0209-JCC

ORDER

This matter comes before the Court on Plaintiffs' motion for an order authorizing the release of information from the Washington State Employment Security Division ("ESD") (Dkt. No. 9). Having thoroughly considered the motion and the relevant record, the Court hereby GRANTS the motion for the reasons explained herein.

Plaintiffs, the Boards of Trustees of joint labor management trust funds governed by the Employee Retirement Income Security Act of 1974, allege that Defendants have failed to make employee benefit contributions to the funds. (*See generally* Dkt. No. 1.) Plaintiffs contend that they require payroll information to calculate amounts owing but that Defendant Barry Civil

1 Construction, Inc. has informed them that it does not have the necessary records for payments
2 owing relating to 2018 wages. (Dkt. No. 10 at 1–2.) Accordingly, Plaintiffs seek personnel
3 information from the ESD to assist them in determining the amounts due. (Dkt. No. 9 at 1.)
4 Specifically, Plaintiffs would like to subpoena “all records in the possession of the [ESD]
5 regarding employees of Barry Civil Construction for January through December 2018.” (Dkt.
6 No. 13 at 4.) Such records are ordinarily private and confidential, Wash. Rev. Code § 50.13.020,
7 but they “shall be available” to parties in judicial proceedings “upon a written finding by the
8 presiding officer that the need for the information or records in the proceeding outweighs any
9 reasons for the privacy and confidentiality of the information or records,” Wash. Rev. Code at §
10 50.13.070. Plaintiffs ask the Court to make this finding. (*See generally* Dkt. No. 9.)

11 Having reviewed Plaintiffs’ motion, attached declaration, proposed subpoena, and the
12 relevant record, the Court FINDS that the need for the information and records Plaintiffs seek
13 from the ESD outweighs any reasons for their privacy and confidentiality. *See* Wash. Rev. Code
14 § 50.13.070. Accordingly, the Court GRANTS Plaintiffs’ motion (Dkt. No. 9) and
15 AUTHORIZES the issuance of the proposed subpoena (Dkt. No. 13). Plaintiffs should attach a
16 copy of this order to the subpoena.

17 DATED this 21st day of June 2021.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE